

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 251 – HB 294**

March 31, 2011

**SUMMARY OF BILL:** Creates a licensure and enrollment program for the production, distribution, and dispensing of a cannabis for a qualifying medical condition. Authorizes a person with a qualifying medical condition to enroll in the safe access program where the patient can receive a prescription from a licensed practitioner for cannabis and receive the product from a licensed pharmacist at a participating pharmacy. Qualifying patients in the program will receive a safe access identification card through the Department of Health. Producers and distributors of the cannabis to be used in the program are to be licensed by the Department of Agriculture and will pay an initial application fee of \$250, an operation fee of \$1,000, and a renewal fee of \$1,000 every two years. All information obtained during the enrollment and verification process is confidential. Creates a Class B misdemeanor offense for fraudulent representation to a law enforcement officer of any fact or circumstance to avoid arrest or prosecution. Creates a 13-member Select Oversight Committee on Medical Marijuana appointed by the General Assembly that will meet at least three times per year and report its findings to the General Assembly by January 1 of every even numbered year.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenue – \$216,700/FY11-12  
\$652,900/FY12-13  
\$2,113,200/FY13-14 and Subsequent Years  
Exceeds \$3,300/Recurring/Board of Pharmacy**

**Increase State Expenditures – \$119,700/One-Time  
\$4,300/One-Time/Board of Pharmacy  
\$1,361,300/Recurring  
\$156,200/Recurring/Board of Pharmacy  
Exceeds \$501,000/FY12-13 and Subsequent Years**

**Increase Local Revenue – Not Significant  
Increase Local Expenditures – Not Significant**

**Assumptions:**

- There will be a gradual implementation of the program. The Departments of Health and Agriculture will have to promulgate rules and regulations governing the program and begin accepting applications for the licensed producers, distributors, and dispensaries

within 120 days after the effective date. Within 180 days of the effective date, the Departments will hold a public hearing on the applications of at least one producer, one distributor, and one dispensary. Within 210 days of the effective date, the program will grant at least one certificate to a licensed producer, licensed distributor, and dispensary. Within 270 days of the effective date, the program will begin to accept applications to provide certificates for additional licensed producers, distributors, and dispensaries.

- Based on the timeline established in the legislation, it is estimated that there will be at least three producers and three distributors licensed in the first year, resulting in an increase in fee revenue of \$8,100 [(\$250 application fee + \$1,000 operation fee + \$100 registration identification card fee) x 6]. It is estimated that at least 10 additional producers and 10 additional distributors will be licensed in year two, resulting in an increase in fee revenue of \$27,000 [(\$250 application fee + \$1,000 operation fee + \$100 registration identification card fee) x 20].
- It is assumed that anywhere from 800 to 3,000 individuals will participate in the program by year two. After year two, it is estimated that there will be at least 10,000 registered participants.
- Based on information provided by the California Board of Equalization, it is estimated that there were approximately \$1,000,000,000 in taxable sales of medical cannabis in California in FY09-10. According to the U.S. Census Bureau, the 2009 population for California was estimated to be 36,961,664 and the Tennessee population was estimated to be 6,296,254 (17.03 percent of the California population). Based on these numbers, it is estimated that Tennessee taxable sales of medical cannabis would be \$170,300,000 ( $\$1,000,000,000 \times 17.03\%$ ).
- If we assume that companies within the industry pay taxes on an average net profit of 15 percent, the net profit on which excise tax would be paid is \$25,545,000 ( $\$170,300,000 \times 15\%$ ). The state excise tax rate is 6.5 percent, so the increase in state revenue attributable to excise tax collections will be \$1,660,425 ( $\$25,545,000 \times 6.5\%$ ). It is estimated that ten percent of this amount, or \$166,042, will be realized in FY11-12, 30 percent, or \$498,127 in FY12-13 and 100 percent if FY13-14 and each year thereafter.
- Net worth of these companies is estimated to be equivalent to annual sales (\$170,300,000). The franchise tax rate is \$.25 per \$100 of value, so the increase in state revenue attributable to franchise tax collections will be \$425,750 [ $(\$170,300,000 / \$100) \times .25$ ]. It is estimated that ten percent of this amount, or \$42,575, will be realized in FY11-12, 30 percent, or \$127,725 in FY12-13 and 100 percent if FY13-14 and each year thereafter.
- Sale of medical cannabis will not be subjected to sales tax.
- The Department of Agriculture will need additional staff in order to meet the regulatory requirements of the proposed legislation which includes the licensure of producers and distributors, issuance of identification cards, creation and maintenance of a registry database, and the regulation of production and processing facilities.
- The Department will hire a director, administrative services assistant, clerk, a training manager, an agriculture enforcement officer, and an information systems analyst in the first year. These positions are estimated to increase recurring expenditures by \$408,809, which includes salaries (\$244,484), benefits (\$83,125), administrative services allocation (\$47,400), communications and networking (\$10,200), travel (\$20,000), and supplies (\$3,600). There will be an increase in one-time expenditures of \$26,466, which

includes computers (\$12,324), office landscaping (\$8,142), and registration card printing equipment (\$6,000).

- It is estimated that the Department will also hire an additional administrative assistant, two training officers, two agriculture enforcement officers, and three auditors in year two. These positions are estimated to increase recurring expenditures by \$500,955, which includes salaries (\$271,844), benefits (\$92,427), administrative services allocation (\$63,200), communications and networking (\$13,600), travel (\$55,084), and supplies (\$4,800). There will be an increase in one-time expenditures of \$27,288, which includes computers (\$16,432) and office landscaping (\$10,856).
- The Department of Health (DOH) will need additional staff in order to meet the regulatory requirements of the proposed legislation which includes the determination of eligibility, issuance of identification cards, creation and maintenance of a database, and the operation of the program in local health departments.
- DOH will hire an administrative services assistant position in the seven regional health departments and the six metropolitan health departments. These 13 positions are estimated to increase recurring expenditures by \$756,956, which includes salaries (\$427,830), benefits (\$145,462), administrative services (\$102,700), communications and networking (\$19,864), office leases (\$53,300), and supplies (\$7,800). There will be an increase in one-time expenditures of \$58,800, which includes computers (\$23,700) and office landscaping (\$35,100).
- Each region and metropolitan health department will incur a one-time increase in expenditures of \$20,800 for photo identification and digital cameras (\$13,000) and security encryption equipment (\$7,800).
- The Department will hire additional positions in the regions and metropolitan areas as are needed to meet the demands of the program. It is estimated that expenditures in year two and subsequent years will increase but an exact amount is dependant on the rules and regulations established by DOH and program participation.
- DOH will hire an information specialist position and a database manager position to manage the information collected and to run verifications of program participants. These positions are estimated to increase recurring expenditures by \$183,735, which includes salaries (\$116,220), benefits (\$39,515), administrative services (\$15,800), communications and networking (\$2,800), office leases (\$8,200), and supplies (\$1,200). There will be an increase in one-time expenditures of \$8,600, which includes computers (\$3,200) and office landscaping (\$5,400).
- There will also be a one-time increase in expenditures of \$5,000 for the controlled substance monitoring database.
- The Board of Pharmacy will be responsible for ensuring prescribers and dispensers report the dispensing of cannabis to be included in the controlled substance monitoring database and to manage licensure of the new pharmacies licensed for the program and to ensure compliance with the provisions of the program. The Board will hire a pharmacist to assist with the additional responsibilities of the Board. The position will result in an increase in recurring expenditures of \$156,174, which includes salary (\$95,652), benefits (\$32,522), administrative services (\$7,900), communications and networking (\$1,400), office lease (\$4,100), travel (\$14,000), and supplies (\$600). There will be an increase in one-time expenditures of \$4,300, which includes computers (\$1,600) and office landscaping (\$2,700).

- It is estimated that approximately 15 dispensaries will become licensed statewide over the first two years. This includes one dispensary in each health region, one dispensary in Hamilton, Knox, Madison, and Sullivan Counties, and two dispensaries in Davidson and Shelby Counties. The initial licensure and renewal fees are \$218 resulting in an increase in revenue of \$3,270 (\$218 x 15). The Board may have to increase fees greater than this amount if Board revenue is not sufficient to cover the Board's expenditures.
- Pursuant to Tenn. Code Ann. § 4-3-1011, all health-related boards are required to be self-supporting over a two-year period. The Board had a balance of \$74,641.74 in FY09-10 and a deficit of \$59,776.49 in FY08-09. As of June 30, 2010, the Board's cumulative balance was \$276,649.24.
- The provisions of this bill do not establish compensation of travel reimbursement for the members. It is assumed that the nine non-legislative members will receive similar per diem and travel reimbursement as the four legislative members. The Committee must meet at least three times per year, resulting in an increase in recurring expenditures of \$11,817 [(\$176 per diem + \$127 mileage for each member) x 13 members x 3 meetings].
- If there is a decrease in convictions, there would not be a significant impact on expenditures related to court proceedings or incarceration due to the legislation creating two criminal offenses which will require resources for prosecution and incarceration.
- The creation of Class B and Class C misdemeanors will not have a significant fiscal impact on local governments.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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